

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Bogh Analyst: LuAnna Hass Bill Number: AB 1811  
Related Bills: See Legislative History Telephone: 845-7478 Introduced Date: January 13, 2004  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Privacy/Security of Social Security Numbers

### SUMMARY

This bill would prohibit the public posting or displaying of any portion of an individual's social security number (SSN).

### PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to further safeguard the use of SSN's.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2005. However, current law provides that the section of law amended by this bill would be operative for the Franchise Tax Board (FTB) on January 1, 2007.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

Current federal and state tax laws require that an individual's SSN be used as the identifying number for that individual with regard to income taxes. Current state tax law provides that information collected on income tax returns is considered confidential and, unless specifically available for other uses, must be used only to administer the income tax laws. FTB may disclose taxpayer information only in limited circumstances and only to specific agencies as authorized by law. Unwarranted or unauthorized disclosure of income tax return information is a misdemeanor offense.

Under the Information Practices Act of 1977 (IPA), current state law requires state and local agencies to maintain in their records only that personal information relevant and necessary to its governmental purposes, including disclosing personal information under only specific circumstances and keeping records thereof. "Personal information" is defined as any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, SSN, physical description, home address, home telephone number, education, financial matters, and medical or employment history. The (IPA) establishes civil remedies for the enforcement of its provisions.

#### Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

#### Department Director

#### Date

Gerald H. Goldberg

2/11/04

Current state law prohibits any state agency from sending any outgoing United States mail to an individual containing personal information about that individual, including, but not limited to, the individual's SSN, telephone number, driver's license number, or credit card account number, unless the correspondence is sealed and no personal information can be viewed from the outside of that correspondence.

A recently enacted state law (SB 25, Stats. 2003, Ch. 907) limits the use of SSNs as personal identifying numbers. The law specifies that the limitations become operative with respect to FTB beginning January 1, 2007. Specifically, the law prohibits a person or entity from:

- publicly posting or displaying an individual's SSN;
  - "publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.
- printing an individual's SSN on any card required to access products or services;
- requiring an individual to transmit his or her SSN over the Internet unless the connection is secure or the SSN is encrypted;
- requiring an individual to use his or her SSN to access an Internet website unless a password or unique personal identification number is also required to access the website; and
- printing an individual's SSN on any materials that are mailed to the individual, unless state or federal law requires the SSN to be on the document to be mailed. Notwithstanding this provision, applications and forms sent by mail may include SSNs.

The law also prohibits a person or entity from encoding or embedding an SSN in or on a card or document using technology that includes, but is not limited to, bar codes, chips, magnetic strips, or other technology. In addition, the law specifies that the above prohibitions do not apply to documents open to the public pursuant to the Bagley-Keene Open Meetings Act, which applies to state agencies.

### THIS BILL

This bill would expand the current law prohibiting the public posting or displaying of SSN's by prohibiting a person and both private or government entities, from the public posting or displaying any portion of an individual's SSN.

### IMPLEMENTATION CONSIDERATIONS

Since the department does not currently publicly post or display any portion of an SSN, implementing this bill would not significantly impact the department's programs and operations.

### **LEGISLATIVE HISTORY**

SB 25 (Bowen, Stats. 2003, Ch. 907) limits a person and both private and government entities from using SSNs as personal identifying numbers.

SB 168 (Bowen, Stats. 2001, Ch. 720) limits a person or entity, other than a state or local agency, from using SSNs as personal identifying numbers. This act also grants a consumer the right both to verify and to authorize the issuance of their credit report information.

SB 129 (Peace, Stats. 2000, Ch. 984) requires each state agency to enact and maintain a permanent privacy policy in adherence with the IPA.

SB 1365 (Murray, 1999/2000) would have created the "Identify Theft Victim's Protection Act," which would have made it a felony or misdemeanor to intentionally disclose personal information about a California resident to a third party for direct marketing purposes. This bill failed passage from the Senate Committee on Public Safety.

## **PROGRAM BACKGROUND**

Under current department practice, the department collects personal information, i.e. SSN's and wage information from various sources, including from the taxpayer and from agencies required to report financial information. This information is used for compliance development, audit, and collection purposes. FTB does not use or provide personal information, including SSN's to third parties for any marketing purposes. As required by statute, all information received from the taxpayer is confidential and is shared with federal or state agencies only for statutorily specified purposes.

The basic design of FTB's personal income tax mainframe computer system relies on using the SSN as the taxpayer's account number. All refunds, billings, and taxpayer communications relating to the taxpayer's account contain the taxpayer's SSN. However, the department does not publicly post or display the SSN's. As required by recently enacted state law (SB 25, Stats. 2003, Ch. 907), FTB will discontinue the use of SSN's on mailings to the taxpayer by the statutorily required operative date of January 1, 2007.

## **OTHER STATES' INFORMATION**

Since the department does not publicly post or display any part of an SSN, a review of other states' tax agencies policies regarding SSN's would not be relevant at this time.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

## **LEGISLATIVE STAFF CONTACT**

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